



US Army Corps
of Engineers.

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

NUMBER: 25907S – Montanera Project

DATE: September 21, 2001

RESPONSE REQUIRED BY: October 22, 2001

PROJECT MANAGER: Molly Martindale TELEPHONE: (415) 977-8448 Email: mmartindale@spd.usace.army.mil

I. INTRODUCTION: Mr. Michael Olson of Orinda Gateway LLC (dba Montanera LLC), 232 Brookwood, Orinda, California, 94563, ((925) 258-1020), has applied for a Department of the Army (Corps) permit to fill 4.64 acres (ac) of wetlands (total wetland ac on-site: 8.74) and 20,723 linear feet (lf) of channel (total lf on-site: 56,304), to build a residential development in the Gateway Valley in Orinda, Contra Costa County (Figures 1 & 2). The project is now known as the Montanera Project. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

(The four binders comprising the Corps application for the project are available at the Regulatory Branch of the Corps and at the Planning Counter at the City of Orinda offices, 14 Altarinda, in Orinda, CA. Please call Molly Martindale at (415) 977-8448 to make arrangements to review the Corps set.)

A Public Notice for the similar, previously proposed project, the "Gateway Valley Project," was published on October 8, 1997. That project proposal was withdrawn by the applicant in October 1999.

Projects have been proposed on this site since 1987. Orinda Gateway LLC purchased the property in November 1996. A Revised Final Development Plan for the site was approved by the City in October 1998, with further amendments approved in March 1999 and February 2000.

The applicant has submitted a voluminous amount of material regarding this project. This Public Notice is a

very brief summary of some of these materials. All or part of the following documents have been used in preparation of this public notice:

- Application for Department of the Army Permit, dated February 1, 2001.
- "Section 404(b)(1) 'Alternatives Analysis' for the Montanera Project, Orinda, California, with Appendices (in four volumes), dated February 2001.
- "Final Supplemental Environmental Impact Report," Volumes 1 & 2, dated July 20, 1998.

II. PROJECT DESCRIPTION: The Montanera/ Gateway Valley project site is 978 acres, extending south from the Gateway Boulevard exit to Highway 24. It is bordered to the northwest by lands of the East Bay Municipal Utilities District (EBMUD), to the west by lands of the East Bay Regional Park District (EBRPD) and of McCosker, to the southeast by lands of Pacific Gas and Electric (PG&E), and to the east by residential areas of Orinda.

As shown in the attached drawings (Figures 3 & 4), the applicant plans to construct 225 low-density, upscale homesites and associated infrastructure on 118 hillside acres. In the lowest part of the valley a regulation 18-hole golf course (including clubhouse, practice areas, and maintenance facilities) will be built on 176 acres. Also within the development envelope are approximately 64 acres of included open space, and 14.4 acres of interspersed restored aquatic and riparian habitat, and golf-course-associated swimming and

tennis facilities. The remaining 605.6 acres will be preserved open space, some of which will contain trails and parks.

The proposed project conforms to the City of Orinda's (City) General Plan objectives for the Gateway Valley. In addition to the private development described above, the project would include hiking, riding, and biking trails; three new City parks; and dedication to the City of an area to be used as baseball and soccer fields (and/or an elementary school site). The applicant will also pay over \$10 million to the City to partially mitigate for anticipated impacts to public health, safety and roadway facilities, will pay \$1.7 million to the Orinda Unified School District, and will establish a geologic hazard abatement district and other funding mechanisms to maintain and protect site amenities.

III. PROPOSED MITIGATION: The applicant proposes both on-site and off-site mitigation for impacts to wetlands and waters of the United States (Figure 5). Wetland and stream mitigation areas would be constructed simultaneously with the development of the project. The applicant also proposes to do numerous stabilization projects on both Brookside and Moraga Creeks (Figure 6).

On-site, a total of 7.9 acres of wetlands mitigation is proposed, which would include creation of approximately 3.0 acres of seep wetlands and 4.9 acres of seasonal wetlands. Seeps will be created by providing water from groundwater sources and spreading it across hillside slopes. Seasonal wetlands will be created by excavating depressions in areas that provide appropriate topography and hydrology. Some of the seasonal wetlands are designed as a series of connected basins, which reduces the amount of excavation necessary to create wetlands on existing slopes.

Of the total on-site mitigation acres, approximately 7.2 would be within the development footprint (including the golf course) or adjacent to a path or park in open

space areas surrounding the development.

The applicant plans to re-create 12,939 lf (62% of the total lf lost) of filled channel within the development envelope. The new channels would drain the same basins to the same creeks as the filled channels do now.

In addition, the applicant proposes to acquire approximately 205 acres of land, currently owned by Indian Valley Land LLC (formerly lands of McCosker), to restore and preserve aquatic resources and habitat in a contiguous area to the south of the Montanera property. The acquisition is intended to provide compensatory mitigation for: 1) the enhancement and preservation of habitat for the California red-legged frog (CRLF) the Alameda whipsnake, and the foothill yellow-legged frog; 2) the creation, restoration, and enhancement of wetlands and watercourses; and 3) the creation, restoration, and enhancement of riparian habitat.

Altogether, at Indian Valley, the applicant proposes to:

- create 145 linear feet of stream channel
- restore, enhance, preserve 13,972 lf of existing channel (by fencing and planting)
- enhance and restore 7.4 acres of riparian habitat
- create two ponds (0.3 acre) for CRLF habitat
- restore 0.9 acre of two historic seep wetlands
- create 0.5 acre of additional seasonal wetlands
- enhance 8.0 acres of existing seasonal and seep wetlands
- preserve 31.9 acres of scrub habitat for the Alameda whipsnake

No wetland delineation for current conditions on the Indian Valley site has yet been submitted for Corps evaluation.

IV. STATE APPROVALS: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must obtain a State water

quality certification or waiver before a Corps permit may be issued. The applicant has provided the Corps with evidence that he has submitted a valid request for State water quality certification to the Bay Area Regional Water Quality Control Board. No Corps permit will be granted until the applicant obtains the required certification or waiver. A waiver shall be explicit, or it will be deemed to have occurred if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issues that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612, by the close of the comment period of this Public Notice.

V. PRELIMINARY ENVIRONMENTAL ASSESSMENT: The Corps of Engineers has assessed the environmental impacts of the action proposed in accordance with the requirements of the National Environmental Policy Act of 1969 (Public Law 91-190), and pursuant to Council on Environmental Quality's Regulations, 40 CFR 1500-1508, and Corps of Engineers' Regulations, 33 CFR 230 and 325, Appendix B. Unless otherwise stated, the Preliminary Environmental Assessment (PEA) describes only the impacts (direct, indirect, and cumulative) resulting from activities within the jurisdiction of the Corps of Engineers.

Since the jurisdictional features to be affected by this project are distributed throughout the site, the scope of this PEA includes the entire site, and is not restricted to the boundaries of the jurisdictional areas.

The documents used in the preparation of this Preliminary Environmental Assessment are on file in

the Regulatory Branch, Corps of Engineers, 333 Market Street, San Francisco, California [contact: Molly Martindale at (415) 977-8448].

Project Setting - The project site comprises headwaters of two creeks, Brookside Creek and Moraga Creek. The northern two-thirds of the site drains to San Pablo Creek and San Pablo Reservoir, primarily through Brookside Creek, and the southern one-third to San Leandro Creek and San Leandro Reservoir through Moraga Creek.

Over the past 150 years the site has been used primarily for grazing. Historically at least two ranch sites have operated on the property. Little is left of one, the old Domingo Ranch complex. The Boeger Ranch site, near the point where Brookside Creek exits the property, was vacated in the last few years. Approximately 20 acres in the northern portion of the property were used as a quarry (the Upton Quarry) by Kaiser Industries from 1944 to 1954. Otherwise, the whole valley has remained grazed open space.

The largest basin on the site comprises the entire Brookside Creek headwaters watershed from ridgetop to ridgetop. Brookside Creek is perennial, as are two tributaries, and there are a number of seasonal tributaries as well. A mosaic of wetlands of various types, and a variety of vegetation types and microclimates, are associated with each other and with the main creek and its tributaries throughout the watershed.

Non-native annual grassland, dominated by wild oats, occupies approximately 638 acres (65 %) of the project site. The next largest habitat is coast live oak "forest," which occupies 198 acres (20%) scattered throughout the site. Northern coyote brush scrub occupies 73 acres (7.5%), coast live oak/willow/alder riparian 28.5 acres (2.9%), and California bay forest 25.8 acres (2.6%) of the site.

The coast live oak/willow/alder riparian habitat is the most complex of the Gateway habitats, including the largest diversity of species and layers, and forms corridors along Brookside Creek, and tributaries of both Brookside and Moraga Creeks.

The proposed project would essentially fill almost the entire lower portion of the watershed (avoiding Brookside Creek, its perennial tributaries, and some wetlands). The applicant proposes to re-create some of the filled tributaries and wetlands within the project site. However, almost all avoided and re-created features within the Brookside watershed will then be surrounded, or otherwise intruded upon, by the development features (including parks and trails), and/or the golf course, following project completion. The relatively undisturbed character of the grazed landscape will be permanently lost with construction of the project.

The two southern basins within the project include a portion of the Moraga Creek watershed. Much of this watershed has been developed previously into residential and commercial areas of Orinda and Moraga. The northernmost of the two basins will be reconfigured to support part of the golf course, and the golf course maintenance building. The effects of the project within this basin will be similar to those in the Brookside watershed. The southernmost creek will not be disturbed.

The Preliminary Environmental Assessment resulted in the following findings:

A. IMPACTS ON THE AQUATIC ECOSYSTEM

(1) PHYSICAL/CHEMICAL CHARACTERISTICS AND ANTICIPATED CHANGES

Substrate – Due to the large amount of ancient-to-recent landslides on the property, geotechnical

remediation will be required in order to construct the project. The majority of direct project impacts will result from this activity.

Geotechnical repair involving the excavation and recompaction of unstable sediments will impact approximately 370 acres in the lower portions of the project site. Some seasonal drainage channels and mitigation wetlands will be constructed on the compacted fill.

This would be a major, direct, permanent, adverse-to-beneficial impact on the substrate. The impact would be adverse to the existing natural system, and beneficial to the siting of the development

Drainage Patterns – Average annual precipitation in the Gateway Valley is approximately 30 inches. Elevations on the site range from 600 feet (NGVD 1929), where Brookside Creek leaves the property, to between 1,100 and 1,500 feet on the surrounding peaks.

The Brookside Creek watershed drains approximately 565 acres of on- and off-site lands via Brookside Creek and its perennial and seasonal tributaries. After Brookside Creek leaves the property, it proceeds northeasterly along Brookside Road and eventually joins San Pablo Creek, which flows into San Pablo Reservoir. All of the east- draining seasonal stream channels in the Brookside watershed would be filled below approximately the 970-foot elevation. Of the two, shorter, northeasterly-draining channels in this basin, one would be completely filled, and the other would be filled below the 870-foot elevation. In addition, a small reach of natural stream along the northern boundary of the project may be impacted.

Except for some proposed erosion-reduction work, Brookside Creek itself would not be filled.

In the Moraga Creek drainage, two unnamed tributaries flow generally east and south, and off of the site, into

Moraga Creek, and eventually into San Leandro Creek and San Leandro Reservoir.

Much of the existing drainage system would be removed/interrupted at mid-slope by the project and the re-created system will exist in a greatly changed context. This would be considered a direct, permanent, adverse, long-term impact on habitat value. However, assuming the re-created channels function appropriately, the project could be considered to have a long-term, neutral effect on drainage within the site.

The project is not expected to have any impacts to off-site drainage patterns.

Streamflow – This project will add impervious surfaces to the Gateway Valley watersheds. According to the applicant, the potential streamflow impacts will be substantially controlled by the introduction of biofilters, highly absorbent turf grasses, swales, and detention basins throughout the project area. Surface flow controls will be managed by means of an Integrated Storm Water Pollution Prevention Plan (SWPPP) and an Integrated Golf Course Management Plan (IGCMP), designed to assure that existing flows are not adversely affected by the proposed development.

As a result, average post-construction rainy-season surface flows in the Brookside Creek drainage should increase by approximately 11 acre-feet per year, about 2% of the present surface flow of 427 acre-feet per year. Due to turf absorbency associated with the golf course, post-construction surface flows in the Moraga drainage are expected to decrease by approximately 4 acre-feet per year, about 3% below present annual flows of 115 acre-feet.

Dry season irrigation of the golf course and residential lots, and the slight seep of shallow, perched groundwater through subdrains that will be installed for geotechnical stabilization purposes, are expected to increase dry-season, base flow in Brookside and

Moraga Creeks. Brookside Creek dry season baseflow will increase from an average of approximately 0.08 cubic feet per second (cfs) to approximately 0.15 cfs. Moraga Creek dry season baseflows will increase from 0.013 cfs to approximately 0.026 cfs.

At this time, project impacts on streamflow are considered to be minimal.

Aquifer Recharge – Gateway Valley groundwater is segmented into two distinct regions: (1) perched groundwater areas at depths of 20-40 feet; and (2) a perennial aquifer comprised of saturated bedrock beginning at depths of approximately 300 feet. In the generally lower-lying, alluvial portions of the site where geotechnical remediation will be concentrated, the sub-drainage system to be installed for soil stabilization purposes will partially recreate the slow groundwater seep flows between upland and lowland regions.

Investigative boring in the Gateway Valley indicates that impermeable clay soils and intrusive faults lie between the deep perennial aquifer and the shallow, perched groundwater. The proposed project will not physically intrude at depths at which the perennial aquifer occurs.

There are not expected to be any project impacts to the perennial aquifer.

Erosion/Sedimentation Rate – Occasional landslides contribute to sedimentation in Gateway Valley streams when they push into existing streamcourse. In the process of site grading, some streamcourses would be rebuilt, and detention basins and subdrains constructed. As a result, landslides leading to streambank erosion in much of the valley would be reduced or eliminated.

In addition, there is an ongoing contribution of sediment due to bank failure. The applicant proposes to implement bank stabilization measures at a

minimum of 54 locations on Brookside and Moraga Creek combined. It is unclear to the Corps at this time that this amount of bank stabilization is required or that it would be more effective than allowing sufficient buffers on both sides of the affected creeks, for example.

The project could have a moderate, long-term beneficial effect by reducing erosion within the valley, and thus reduce sedimentation downstream of the project site.

Water Quality – Sampling and analysis of surface flows in 1997, 1999, and 2000 show that current Gateway Valley water quality conditions are suboptimal in several respects. Unmanaged grazing, high erosion rates, and unstable upland soils load average surface flows with substantially higher levels of fecal coliform, suspended solids and nitrate (NO₃) than are typical of other open space areas in the region. The proposed project will remove cattle from the site, and stabilize areas of high erosion. It will include a network of biofilters, grassy swales, unmanaged turf, revegetated buffer zones, and retention basins and will implement a storm water pollution prevention plan and an integrated golf course management plan.

The anticipated project density and resulting levels of site use are not expected to generate significant loads of metals, toxics or hydrocarbons into surface or receiving waters.

The project could have long-term beneficial impacts to the quality of water leaving the site by removing cattle and their polluting effects from streamcourses and wetlands, and managing inputs from impervious surfaces and the golf course.

(2) BIOLOGICAL CHARACTERISTICS AND ANTICIPATED CHANGES

Wetlands (Special Aquatic Site) – The total amount of wetlands on the site is 8.74 acres. However, the total amount of wetlands reasonably within the development boundaries is 6.84 acres. (1.79 acres are on the far side of Gudde Ridge to the southwest of the project area and drain to the south, and 0.32 acre is in the most southern portion of the site. No fill would occur in either location in any of the alternatives presented in the permit application.)

The applicant proposes to fill 4.64 acres (68%) of the wetlands within the development boundaries. Although there will be some buffers of distance and vegetation, an additional 2.1 acres (30%) of the remaining wetlands will be entirely surrounded by project features, and some may be lost due to altered site hydrology. Therefore, approximately 98% of wetlands within the development boundary are expected to be permanently adversely impacted.

Although most of the seeps and seasonal wetlands on the site are small, they are connected to other wetlands and/or stream channels at a minimum by overland waterflow during the rainy season. Many are within or near wooded or shrubby areas. Willows and/or other native trees or shrubs grow adjacent to, or within, at least sixteen of the wetlands on site, which gives those wetlands higher diversity value for wildlife.

The value of all of the wetlands on site to wildlife is enhanced by the fact that the wetlands are surrounded by open space and mostly protected from human intrusion. Residential portions of the towns of Orinda and Moraga are generally located on the far side of ridges bounding the east side of the project site.

This project is expected to have permanent, direct and indirect, major, adverse impacts on wetlands and on the existing valley ecosystem.

[The applicant has provided a rating of site wetlands based on an approach used for vernal pools in the Santa Rosa Plain. This system has not been reviewed by the Corps for application to non-Santa Rosa Plain wetlands. Therefore characterization based on that approach is not included in this notice.]

Endangered Species – Only one Federally listed (Threatened) species has been found on the project site: the California red-legged frog (*Rana aurora draytonii*) (CRLF). However, in October 2000, the United States Fish and Wildlife Service (USFWS) included the Gateway Valley within the boundaries of its designated Critical Habitat for the Alameda whipsnake (*Masticophis lateralis euryxanthus*).

At least 6 CRLF individuals were observed in a vegetated concrete-lined basin in a short channel connecting an overflow outlet from a siltation basin to Brookside Creek in March of 1997. Tadpoles had been observed in the same pool in June of 1996. The siltation basin above the location where CRLFs were found is fed by a number of tributaries and associated wetlands, which, in the rainy season, comprise a contiguous network.

The currently proposed project will avoid the small basin in which CRLFs were observed and contiguous downstream reaches of Brookside Creek. The large siltation basin above, and the wetlands and drainages that feed it, will be filled by the project.

The applicant proposes to provide additional habitat for CRLF through the creation and restoration of other wetland locations in the Gateway Valley, and the restoration and preservation of habitat in Indian Valley, immediately to the south of the project site.

Formal Section 7 consultation is being initiated with the United States Fish & Wildlife Service (USFWS) for both CRLF and Alameda whipsnake Critical Habitat. Final evaluation of the level of impacts of the project

on the species and their habitats will be based on USFWS consultation.

Habitat for Fish, Other Aquatic Organisms, and Wildlife – The California foothill yellow-legged frog (*Rana boylei*), a state species of concern, was once sighted in the upper Moraga Creek area. The western leatherwood (*Dirca occidentalis*), a state plant species of concern, is known from at least one location in the Brookside drainage. The proposed project will avoid locations of known yellow-legged frog and leatherwood occurrence.

No fish have been reported from Brookside Creek, its tributaries, or on-site tributaries to Moraga Creek. A land-locked population of steelhead trout have been observed spawning further downstream in Moraga Creek, but they are not expected to use the Gateway Valley site, since stream conditions there are unsuitable for permanent or transitory fish populations.

The Gateway Valley is inhabited by common wildlife such as the alligator lizard, gopher snake, California newt, and Botta's pocket gopher. There have also been reports of mountain lions on the site.

In a Biological Assessment of the project site, dated April 1997, the applicant stated that "As a result of the mosaic of habitat types, diversity and abundance of bird species at Gateway Valley is greater than that of any other vertebrate group." At least 52 species of birds have been identified on the project site, and another 53 species are potentially present. In comments on the Final Supplemental EIR in May of 1998, the Audubon Society estimated that 40 species of birds nest on the site.

Impacts to less common species currently using the site are expected to be both direct and indirect, major, long-term and adverse. Benefits to species that co-exist well with suburban human activities can be expected to also be direct indirect, major, and

long-term.

B. IMPACTS ON RESOURCES OUTSIDE THE AQUATIC ECOSYSTEM

(1) PHYSICAL CHARACTERISTICS AND ANTICIPATED CHANGES

Air Quality – Limited to an evaluation of air quality impacts only within Corps' jurisdictional areas, the Corps has determined that the total direct and non-direct project emissions would not exceed the *de minimis* threshold levels of 40 CFR 93.153. Therefore, the proposed project would conform to the State Air Quality Implementation Plan (SIP) for California.

Noise Conditions – Short-term adverse impacts to ambient noise conditions in the local area can be expected during project construction due to equipment operation. These conditions would most likely affect single-family residences located at the far southeastern and eastern extremes of the site. Project construction will be conducted in conformance with applicable local requirements to minimize noise disturbances.

Post-construction, the only noise impacts to surrounding residences might be from golf-course, tennis-court and/or pool conversations.

Project noise impacts are expected to be both short- and long-term, direct, and adverse, but minor.

Geologic Conditions – The geology of the Gateway Valley is highly variable. The steep highlands on the east and west sides (above approximately the 970 ft contour) are underlain with hard volcanic rock (referred to as the "Siesta Formation"), while the lowlands in the center of the valley are underlain by weak, unstable clay-rich sedimentary rock (referred to as the "Moraga Formation"). The proposed development will occur almost entirely within the sedimentary level.

Both ancient, deep-seated bedrock slides, and more recent, shallower slides, have been mapped over large portions of the valley. The ancient landslides are inactive, but significant changes in topography or groundwater conditions could result in their activation. The "recent" landslides consist principally of debris and earthflow slides and, to a lesser extent, slump, slump-flow, and translational landslides. These shallower landslides are a fairly regular rainy season occurrence.

To address this endemic instability, the applicant proposes to grade down almost the entire development envelope (including existing streams and wetlands) and build extensive buttresses, keyways, terraces, and subdrains. Soils would be re-placed at thicknesses varying from 5 to 40 feet in order to attain the landscape forms suitable for supporting the building pads and golf course. Presumably, the reconstruction and stabilization of the lower valley slopes would have a long-term, direct, beneficial impact on the stability of development features.

The Hayward Fault passes two miles to the southwest of the site, the Calaveras Fault is 10 miles to the southeast, and the inactive Moraga thrust fault runs along the eastern edge of the site. Engineering plans for the site considered the "Maximum Credible Earthquake (moment magnitude) for all seven faults within 48 miles of the project site. Any potential adverse effects of earthquake events on residents and/or residences on this currently unstable site would depend on the sufficiency of the design of the buttress and drain system, and the quality of the site construction work.

Aquifer Recharge – In the Gateway Valley, subsurface explorations for geotechnical and ground-water explorations for domestic wells have shown that shallow perched groundwater exists at depths of 20 to 40 feet, and that perennial ground water is typically

located at depths of 300 feet or more.

Most existing springs on site are concentrated near the contacts between the hard volcanics and the impermeable sediments, typically near the bases of the adjacent steep hill fronts on both the east and west sides of the valley. Channels originating entirely on the lower slopes, within the outcrop of the impermeable sedimentary rocks, do not have perennial flows. Some channels that extend into the steep valley flanks, across the contact between sedimentary and volcanic bedrock carry small perennial surface flows.

The project is not expected to have any impacts on the deep perennial groundwater.

(2) BIOLOGICAL CHARACTERISTICS AND ANTICIPATED CHANGES

Riparian Habitat (Not in Corps Jurisdiction) – The project is expected to impact 6.93 acres of riparian habitat (24% of total on Montanera), although the residential areas and the golf course have been designed with steeper gradients for the custom lots and tighter boundaries for the golf fairways to preserve as much existing riparian habitat as possible. The applicant will provide riparian habitat mitigation (planting and limited grading of channel for stabilization purposes) at a 3:1 ratio, for a total of 20.8 acres of created or restored riparian habitat along 12,000 lf of stream. Mitigation will occur on the Montanera property (13.4 acres), as well as the adjoining Indian Valley (7.4 acres) site.

There can be expected to be a temporal loss of riparian habitat values while mitigation plantings are developing and the mitigation areas on the Montanera site will be surrounded by development features. However, the applicant is proposing a 3:1 replacement ratio, and mitigation areas on Indian Valley land would presumably be more isolated from human intrusion, therefore the impacts of the project on riparian habitat

are considered neutral.

(3) SOCIOECONOMIC CHARACTERISTICS AND ANTICIPATED CHANGES

Aesthetic Quality – The Montanera project area is private property and is mostly not visible to the general public (via Highway 24). The site is presently characterized, in part, by heavily forested hillsides that maintain a significant rural atmosphere for the surrounding residents. The project will generally avoid the higher elevations and forested areas of the Gateway Valley. The City has identified the preservation and enhancement of such aesthetic attributes as a major public objective. The proposed project's visual impacts are determined to be long-term and direct, but neutral for the average citizen.

Agricultural Activity – The project will preclude the use of the site for cattle grazing. The site represents approximately 0.5% of Contra Costa County's agricultural land and 95% of the City of Orinda's agricultural land. Due to the relative isolation of this site (as an agricultural resource) by development and public park lands, because the agricultural resources on site are not unique, and because the project site is such a small portion of the county-wide agricultural resources, it is determined that the project would have long-term, direct, adverse impacts on agricultural resources which would be major in relation to the City of Orinda (which is not attempting to preserve agriculture at this location), but minor in relation to Contra Costa County.

Economics – Long-term job creation impacts will likely be limited to golf course and residential community management and staff positions, and to third party residential service providers. There will likely be an increase in patronage to regional retail, recreational, and service businesses. The primary economic benefit is the provision of upscale housing within the East Bay and San Francisco commute radius,

a region facing acute housing shortages. These would be moderate, indirect, long-term, beneficial effects.

Public Health and Safety – Since no police, fire protection, or emergency medical facilities are to be located within the Montanera site, existing facilities available to all residents of Orinda would be required to provide these services for the project. Based on the demographics of golf course patrons, and residents of senior housing, some increase in demand for emergency medical response is expected. However, response time to the site is expected to fall within the current average response times for these services in Orinda.

Project impacts to public health and safety are considered to be minor and long-term. They would be adverse only in the sense that existing facilities would have to serve a somewhat larger population.

Recreational Opportunities – The project would generate substantial enhancements of regional public recreational facilities, including the addition of soccer playfields, baseball fields, hiking and biking trails, permanently preserved and recreational open space, and three new parks. Each of these public amenities has been explicitly identified by the City as a critical public objective. Project impacts on recreation would be indirect, long-term, major, and beneficial.

Traffic/Transportation – Additional traffic burdens associated with the proposed project will be focused on State Route 24, which will provide the only regular access to the site, and on local surface streets serving commercial areas in Orinda. The additional automobile trips generated by the project in these traffic corridors will be a very small percentage of present loads, and the project will have a marginal impact on other public transportation facilities, including BART. Because travel facilities are currently at or near maximum capacity during peak periods, the project can be expected to have a long-term, indirect, adverse but

marginal impact on their use.

(4) HISTORIC - CULTURAL CHARACTERISTICS AND ANTICIPATED CHANGES

A Corps of Engineers archaeologist is currently conducting a cultural resources assessment of the permit area, involving review of published and unpublished data on file with city, State, and Federal agencies. If, based upon assessment results, a field investigation of the permit area is warranted, and cultural properties listed or eligible for listing on the National Register of Historic Places are identified during the inspection, the Corps of Engineers will coordinate with the State Historic Preservation Officer to take into account any project effects on such properties.

C. SUMMARY OF INDIRECT IMPACTS

Beneficial indirect impacts resulting from this project would be in the areas of reduction of on-site erosion and off-site sedimentation, the addition of some public recreational opportunities, and the provision of additional habitat (through tree-planting) for species adapted to human presence. Also, the project would add to the upscale housing supply in the East Bay.

Adverse indirect impacts would be in the areas of loss of wildlife species less adapted to human presence, and added demand on public health and safety facilities and services.

D. SUMMARY OF CUMULATIVE IMPACTS

Potential Cumulative Effects: Gateway Valley and Indian Valley to the south are both intact inner-Coast Range Valleys. Montanera proposes to set aside approximately the upper third of Indian Valley (previously owned by the McCosker family) as partial mitigation for impacts in Gateway Valley.

However, the separate owner's plans for the lower two-thirds of Indian Valley are unclear. It has been indicated that development is a possibility. The uniqueness of the valleys as "undisturbed" watersheds is unknown at this time.

Implementation of the Montanera Project presumably will require the loss of some vegetated portion of the EBMUD property to the north of the Montanera Project boundary for the purposes of completing the undergrounding of currently aerial power lines. Although not part of the current proposal, the addition of some golf facilities, playing fields and a nature park, all on lands in the northern end of the site currently owned by East Bay Municipal Utilities District were included in the previous application and may be part of a future, related permit application by the City of Orinda. Should the previously-proposed project occur, the existing concrete drain pattern would be replaced with a re-created "natural" creek, which could be an improvement over the existing situation. A jurisdictional delineation has been completed for this site.

The current proposal indicates that a connecting trail would be constructed through the adjacent PG&E substation site to the southeast. A possible route was indicated in connection with the previously-proposed project. Although that concept showed the trail crossing several wetland areas, it appears that it would be possible to avoid most of them. Therefore the most difficult problem to resolve is likely to be the crossing of Moraga Creek, which is quite wide through the affected reach. No design has yet been proposed, but this crossing could represent additional impacts generated from the Montanera Project.

E. CONCLUSIONS AND RECOMMENDATIONS

Based on an analysis of the information available, Corps of Engineers has determined that additional data

is needed before the significance of the impacts upon the quality of the human environment can be determined. No decision regarding the need for an Environmental Impact Statement (EIS) can, therefore, be made until the Final Environmental Assessment (EA) has been completed.

VI. EVALUATION OF ALTERNATIVES:

Evaluation of this activity's impacts on the public interest will also include application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404 (b) of the Clean Water Act (33 U.S.C. Section 1344 (b)). An evaluation pursuant to the 404 (b)(1) Guidelines indicates the project is not water dependent.

The Corps has determined the overall purpose of the project, for use in the Alternatives Analysis, to be "to create an upscale residential community and regulation golf course."

The applicant has submitted an Alternatives Analysis for the project, which will be reviewed for compliance with the guidelines. The Analysis includes sixteen on-site alternatives, including the proposed project, ranging from substantially more intensive development of Gateway Valley under previous development proposals to a "no project" alternative that would maintain existing conditions on the site. In addition, the applicant reviewed 22 potential off-site locations for the project.

VII. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts which the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits which reasonably may be expected to accrue from the proposal must be balanced against

its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision will reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

VIII. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the overall public interest of the proposed activity.

IX. SUBMISSION OF COMMENTS: Interested parties may submit in writing any comments concerning this activity. Comments should include the applicant's name, the number, and the date of this Notice and should be forwarded so as to reach this office within the comment period specified on page one

of this Notice. Comments should be sent to the Regulatory Branch. It is Corps policy to forward any such comments which include objections to the applicant for resolution or rebuttal. Additional details may be obtained by contacting the applicant whose address is indicated in the first paragraph of this Notice, or by contacting Molly Martindale of our office at telephone (415) 977-8448 or E-mail: mmartindale@spd.usace.army.mil. Details on any changes of a minor nature which are made in the final permit action will be provided on request.

X. PUBLIC HEARING: A Public Hearing will be conducted on this application in the City of Orinda on:

**October 22, 2001
Monday
7:00 to 10:00 P.M.**

at the

**Orinda Library Auditorium
24 Orinda Way
Orinda , CA**

[For directions to meeting location, see Figure 7.]

This meeting is held pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) and to regulations described in 33 CFR 327. The purpose of the hearing is to acquire information or evidence to be considered in evaluating this proposed permit action and to afford the public an opportunity to present their views, opinions, and information on the proposed project.

Poster Session. There will be a poster session from 6:00 to 7:00 p.m. at the back of the meeting room (displays may remain up until the end of the hearing). The project proponents will be invited to display any information on changes in the project since the Public Notice was issued, and anyone else who would like to

present information in a display format may also do so.

We are not likely to have access to display accessories, so "exhibitors" should probably bring any tables, easels, tape, pins, or other items they may need to use.

Procedures for Speakers. Attendance cards will be available at the meeting room from 6:00 until the meeting adjourns. Attendees wishing to speak at the meeting should mark the appropriate box on the attendance card. The completed cards will be stacked in the order received and speakers will be called in that order.

The number of speakers (with allowance for potential late arrivals) will determine the amount of time available to each speaker. It is expected that the maximum amount of time available will not be more than 5 minutes.

The project proponents will be given 15 minutes at the beginning of the hearing in which to present their project. At the end of the hearing they will also be afforded a limited opportunity to respond to comments made during the hearing.

Due to the time constraints, speakers are requested to avoid duplicating comments that have been made earlier in the hearing, as much as possible. It is further requested that speakers focus their comments

Written Testimony: A court reporter will be recording the meeting, and all testimony will become part of the project record and will be reviewed during the decision-making process. Although actual speaking time will be limited, anyone can submit written comments of any length at the hearing, and for up to ten days following the hearing. Comments submitted after the hearing should be sent to Lt. Colonel Timothy S. O'Rourke, District Engineer, Attention: Regulatory Branch, U.S. Army Corps of Engineers, 333 Market St., San Francisco, CA, 94105-2197.

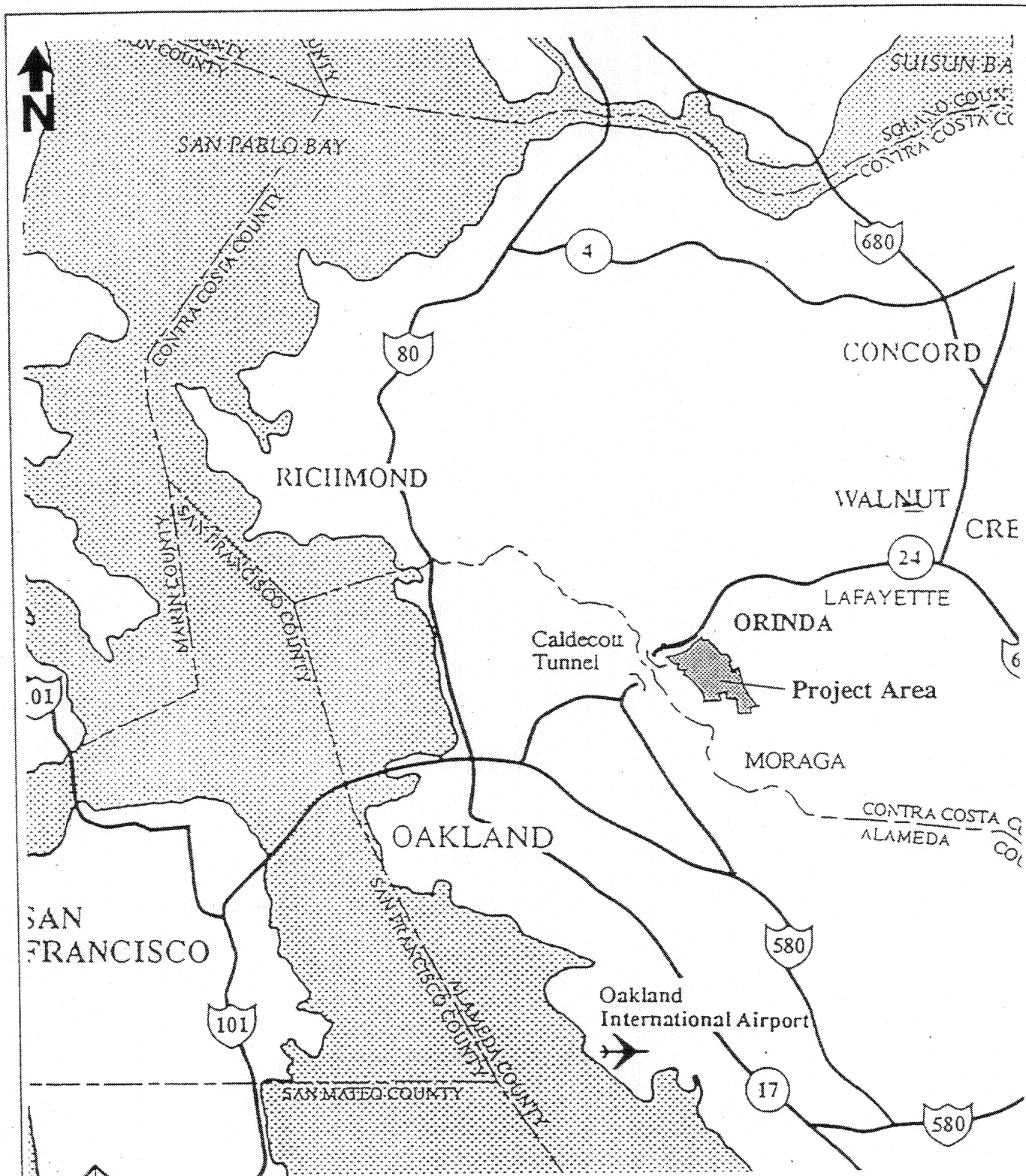


Figure 1

PURPOSE: Landslide Stabilization/
Stream Restoration/
Residential Development

DATUM:

Map from 1992 EIR

ADJACENT PROPERTY OWNERS:

See Application

VICINITY MAP
7.5 0 7.5 15 MILES
SCALE IN MILES 1: 15

Southwest Diversified, Inc.
45 Innsbrook Avenue
Las Vegas, Nevada 89113
Contact: William Foote
702-889-1144

Gateway Valley Project

LOCATION: South of interchange between
Gateway Boulevard and State Route 24.

COUNTY: Contra Costa

APPLICATION BY: Southwest Diversified,
Inc.

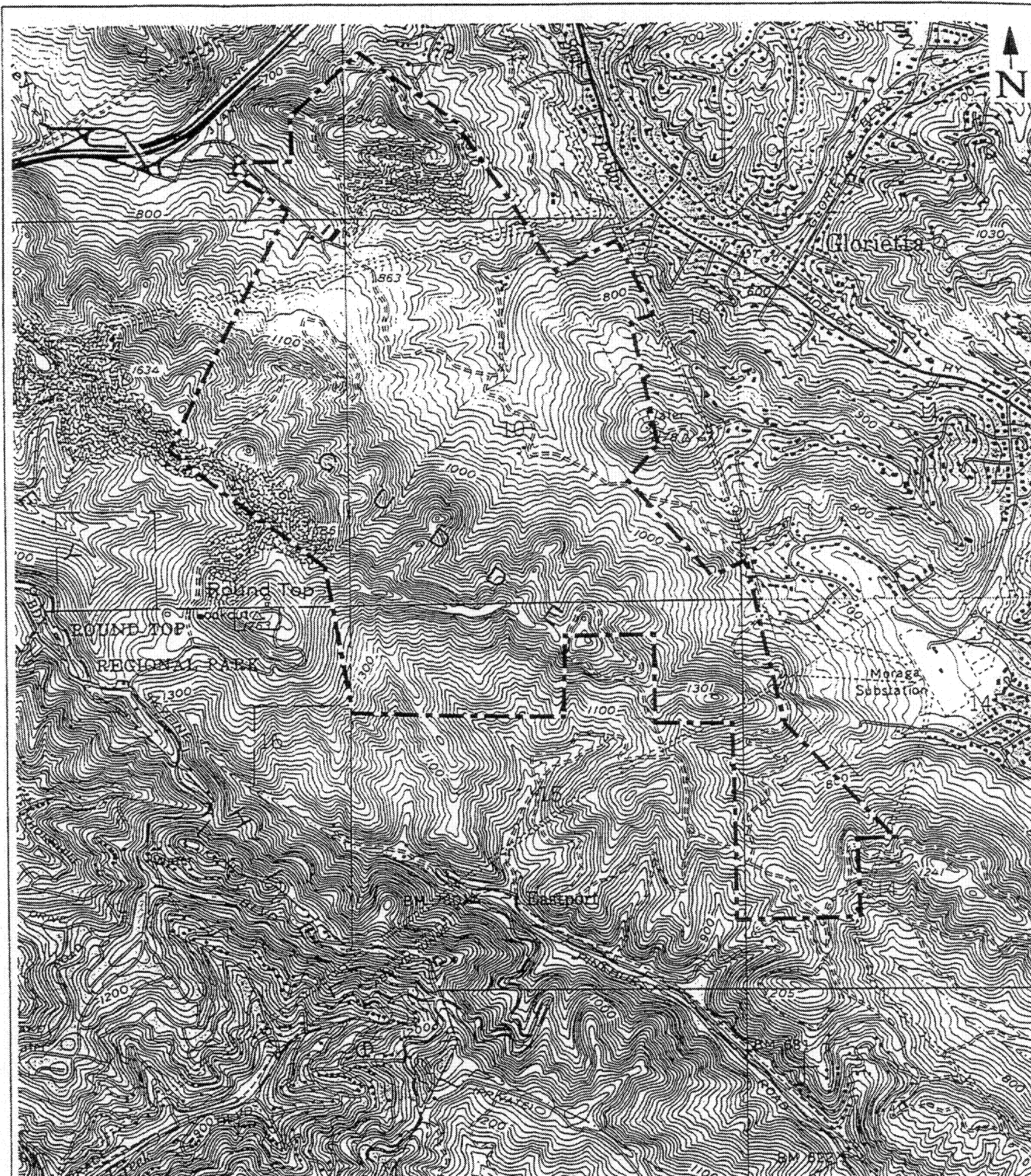


Figure 2

PURPOSE: Landslide Stabilization/
Stream Restoration/
Residential Development

DATUM: NGVD

USGS Quadrangle: Oakland East, CA
1980, 7.5 minute series

ADJACENT PROPERTY OWNERS:
See Application

SITE MAP
1000 0 1000 2000 FEET

SCALE 1: 24,000

Southwest Diversified, Inc.
45 Innsbrook Avenue
Las Vegas, Nevada 89113
Contact: William Foote
702-889-1144

Gateway Valley Project

LOCATION: South of interchange between
Gateway Boulevard and State Route 24.

COUNTY: Contra Costa

APPLICATION BY: Southwest Diversified,
Inc.

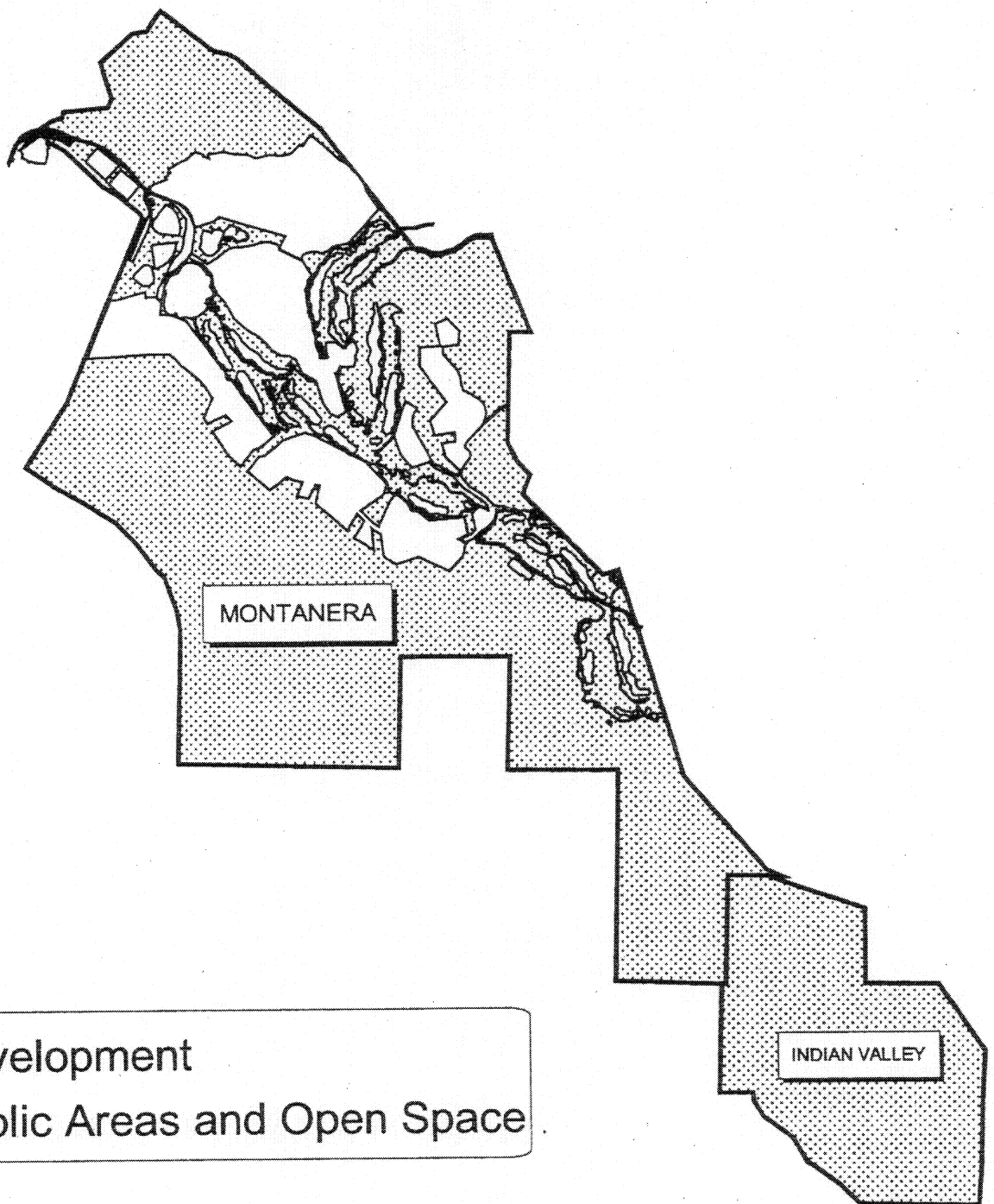


Figure 3

PURPOSE: Residential and
Recreational Development

SCALE: 1 : 24000

Montanera LLC
232 Brookwood
Orinda, California 94563
Contact: Michael Olsen
925.258.1020

Montanera Project

LOCATION: South of Interchange
between Gateway Blvd. and State
Route 24.

COUNTY: Contra Costa

APPLICATION BY: Montanera LLC

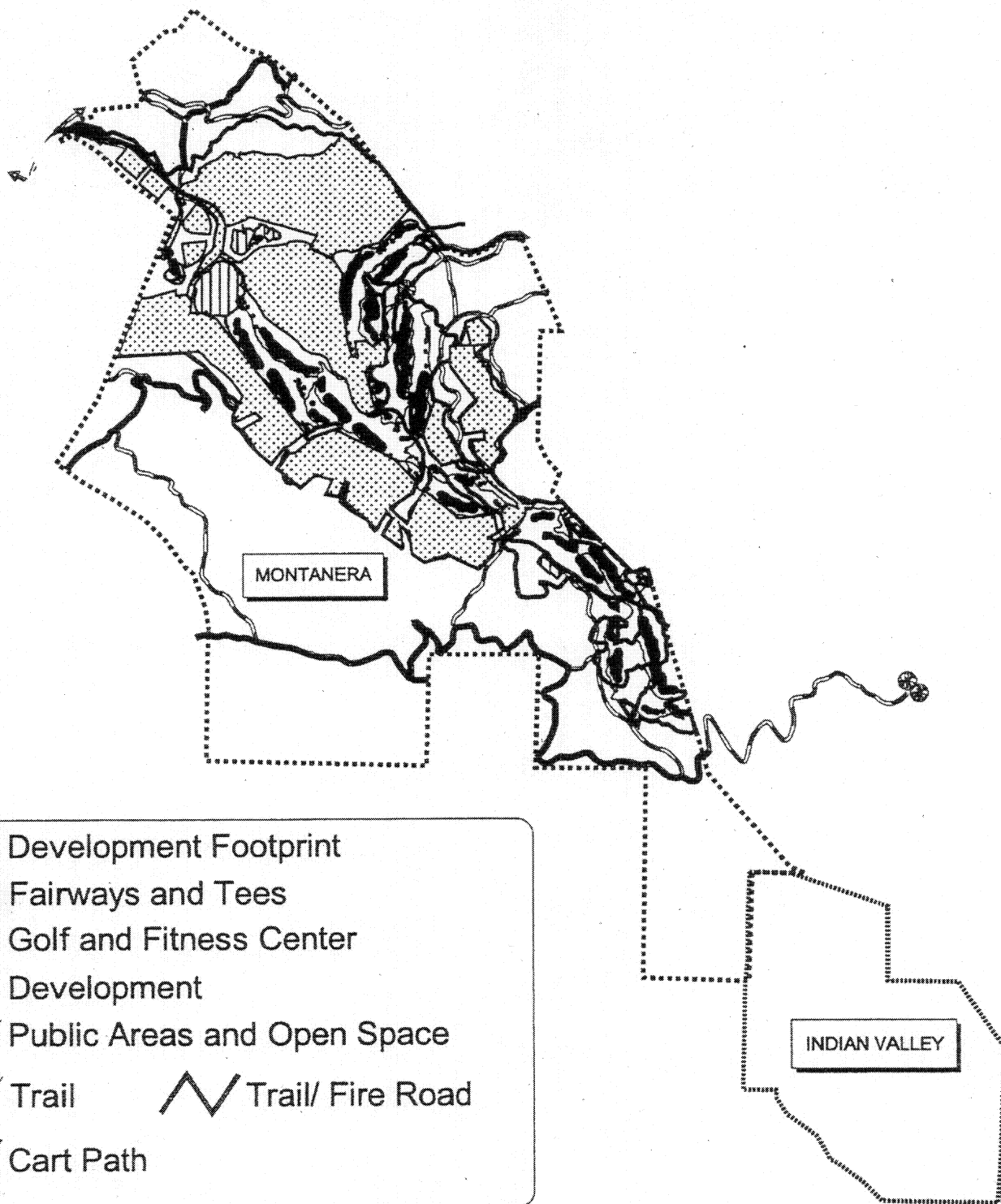


Figure 4

PURPOSE: Residential and Recreational Development

VICINITY MAP

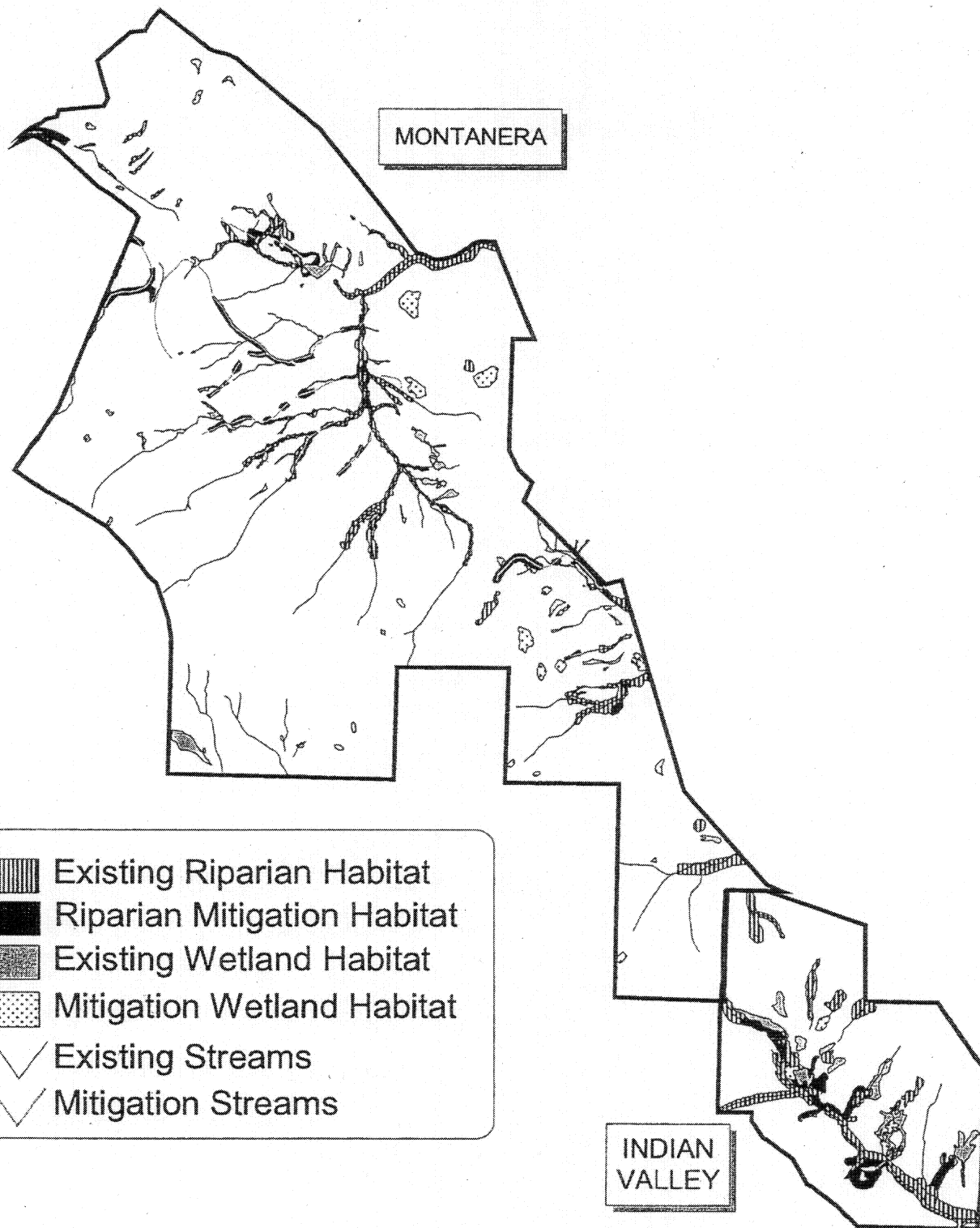
Montanera LLC
232 Brookwood
Orinda, California 94563
Contact: Michael Olsen
925.258.1020

Montanera Project

LOCATION: South of Interchange between Gateway Blvd. and State Route 24.

COUNTY: Contra Costa

APPLICATION BY: Montanera LLC



PURPOSE: Residential and Recreational Development

SCALE: 1: 18000

Montanera LLC
232 Brookwood
Orinda, California 94563
Contact: Michael Olsen
925.258.1020

Montanera Project

LOCATION: South of Interchange between Gateway Blvd. and State Route 24.

COUNTY: Contra Costa

APPLICATION BY: Montanera LLC

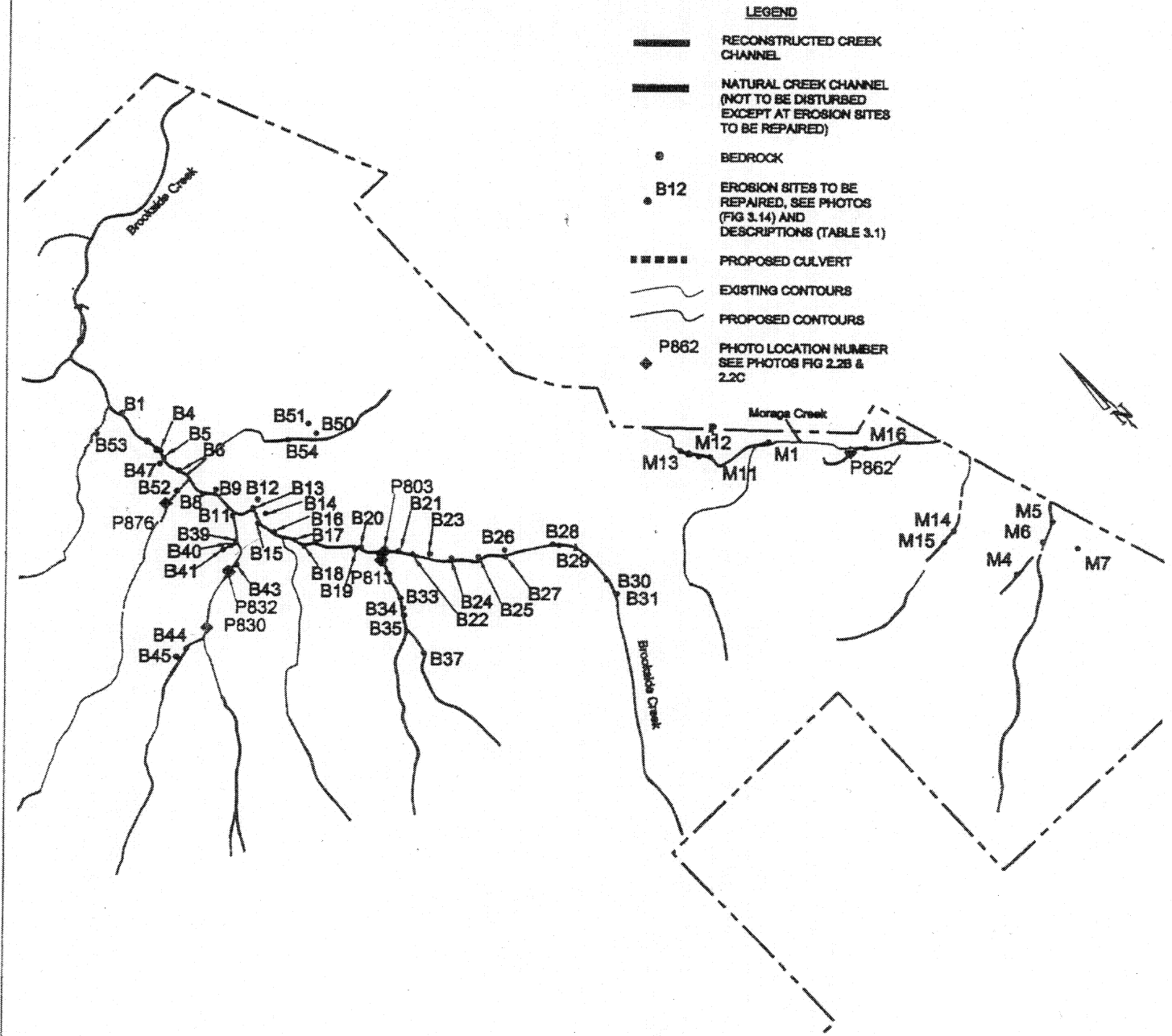


Figure 6

PURPOSE: Stream Erosion Repair

SOURCE: Prunuske Chatham, Inc.

Scale 1:24000

Montanera LLC
232 Brookwood
Orinda, California 94563
Contact: Michael Olsen
925.258.1020

LOCATION: South of Interchange
between Gateway Blvd. and State
Route 24.

COUNTY: Contra Costa

APPLICATION BY: Montanera LLC

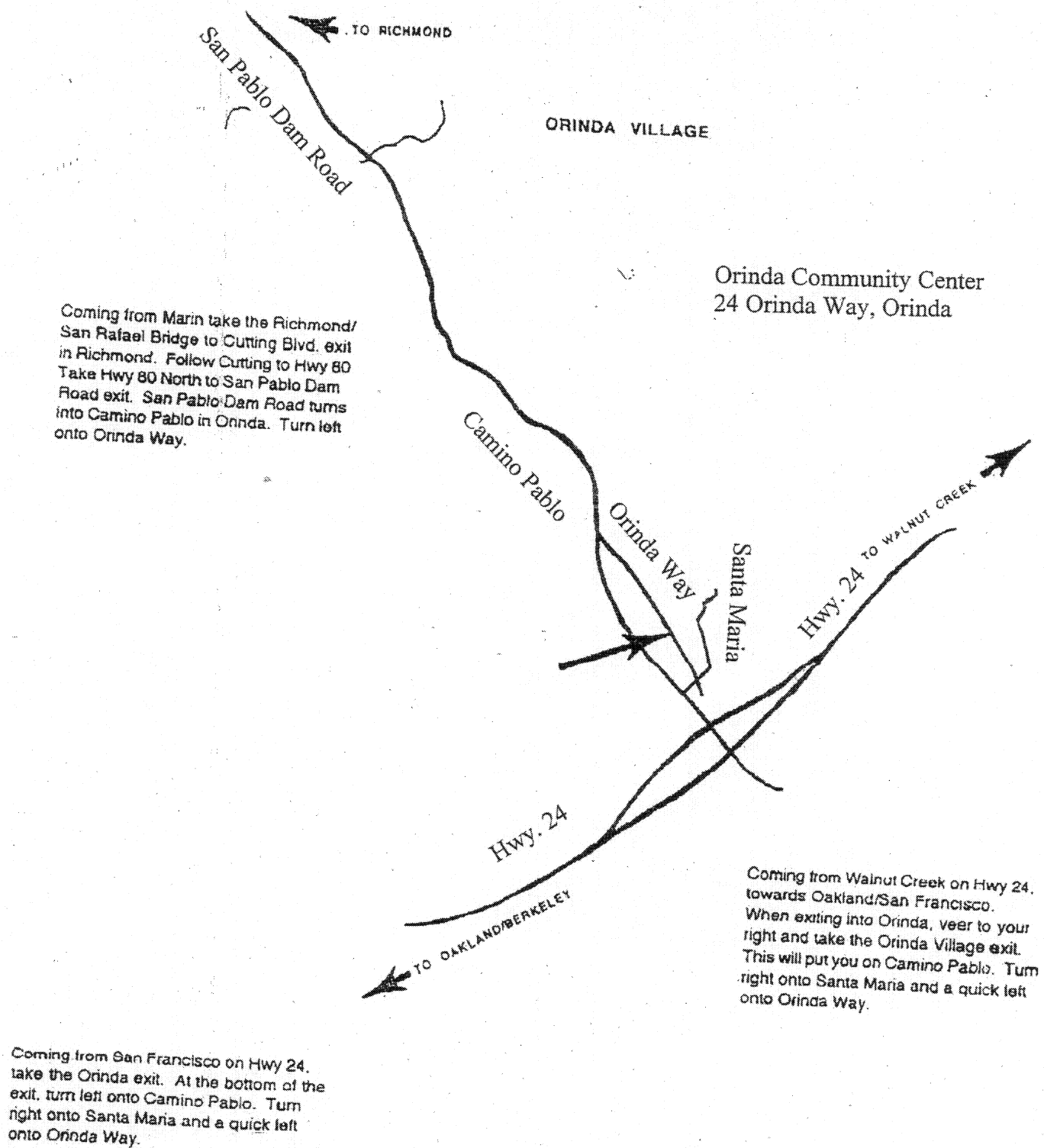


Figure 7